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PATENT
540541-2029

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Yaping Zhu et al.
Serial No. : 09/784,670
Filed : February 15, 2001
For : **MODULATED RELEASE PARTICLES FOR
AEROSOL DELIVERY**
Group : 1647
Examiner : Sandra L. Wegert

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231, on August 7, 2002.

Jerome Rosenstock, Reg. No. 25,456

Name of Applicant, Assignee or Registered Representative

Signature

August 7, 2002

Date of Signature

RESPONSE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Office Action mailed on July 18, 2002.

Claims 1-14 are presently in the subject application.

Restriction has been required under 35 U.S.C. § 121, as follows:

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One Medicament ...

- 1) A medicament:
 - A. The Invention as pertaining to *insulin*,
 - B. The Invention as pertaining to an *insulin analog*,
 - C. The invention as pertaining to an *amylin*,

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X. The Invention as pertaining to a *vaccine* [A more than 20+ way restriction requirement based not on the construct but on the medicament !!].

In view of the mandatory requirements of 35 U.S.C. § 121, Applicants provisionally elect the species "insulin", with traverse.

Favorable reconsideration and withdrawal of the requirement for restriction is requested. It is noted that the Examiner has presented no evidence that a separate search would be required to act on the merits of any of the claims 1 through 14.



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The Examiner has stated that for each medicament listed in claims 4 and 5 of the subject application that "Their searches are non-overlapping, resulting in an undue search burden." Without appearing to stress the obvious, Applicants' invention is directed to a polymeric construct of a polysaccharide polymer having a selected medicament entrapped therewithin, not the medicament **per se**. It is Applicants' position that an unnecessary burden is being created by not searching for a polysaccharide polymeric **construct** (having a biotherapeutic medicament associated therewith). Reference in this regard is made to the subject specification at page 12 to page 13, bridging paragraph; and page 13, first full paragraph.

The Examiner is hereby authorized to call the undersigned attorney on record "collect" on any matter connected with this application. The telephone number is 212-588-0800. In the absence of the undersigned attorney or record, the call will be accepted by any attorney empowered in this application.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP
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By:


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